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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,916	12/11/2003	A. James Schutz	LLJ-10102/08	8483
25006	7590	08/19/2005		
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			EXAMINER TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,916

Applicant(s)

SCHUTZ, A. JAMES

Examiner

Alicia M. Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1, 2, 4-7, 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tally in view of Bott.

3. In regards to claims 1, 2 and 4-7, Tally discloses an apparatus operative for gathering yard refuse from a ground surface, said apparatus comprising:

a gathering device having a frame (10, 16) and a motor (mounted at 24), said frame (10, 16) supporting an elongated rotor (not shown, 22) having a longitudinal axis, said elongated rotor (22) being disposed with a row of spaced apart tines (at 22) extending perpendicular to the longitudinal axis, said elongated rotor driven (22) by said motor (24), said tines (at 22) operative to gather yard refuse from the ground surface when rotating and being moved over the ground surface;

a wheel (20) operative to support said frame (10, 16) on the ground surface;

a hitch (34) mounted to a front portion of the frame (10, 16);

an adjustment mechanism (58, 64) operatively mounted to the wheel (20) adjacent said elongated rotor (22) to adjust the position of the elongated rotor (22) with respect to the ground surface; and

a basket (30) for holding the yard refuse collected from the ground surface pivotally attached to the gathering device (10, 16), said basket (30) having a top and a bottom, said basket (30) having at least one wheel (32) supporting said basket (30) on the ground surface; and

at least one link member (hooks, not shown, see column 2, lines 25-26) said at least one link member having one end pivotally mounted to said basket (30) and an opposite end pivotally mounted to said frame (10, 16), said at least one link member permitting the basket (30) to be lifted upwardly to empty the basket (30), as per claim 1; and

wherein the gathering device further comprises a shield (10) for preventing the collected yard refuse from being ejected out from the gathering device, as per claim 2; and

wherein the basket (30) is a hinged basket (30) adapted to be selectably attachable to the gathering device, as per claim 4; and

wherein the tines (at 22) have a diameter of $\frac{1}{2}$ -1 $\frac{1}{2}$ inches and a length of 5-9 inches, as per claim 5; and

wherein the device is further operative for thatching a lawn, as per claim 6; and

Wherein the elongated rotor (22) appears to be 36-108 inches in length, as per claim 7.

However, Tally fails to disclose wherein the wheel is a pair of wheels operatively connected to the frame, as per claim 1; and

Wherein the basket is supported by a second pair of wheels, as per claim 4.

Bott discloses a similar rake wherein the wheels (79) are a pair of wheels operatively connected to the frame (9) adjacent opposing ends of the elongated rotor (37), as per claim 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheels of Bott on the device of Tally in order to vary the

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height of the tines over the ground. Furthermore, it would have been obvious to one having ordinary skill in the art to provide a second pair of wheels on the basket, as per claim 4, since it has been held that mere duplication of parts of a device involves only routine skill in the art.

4. In regards to claims 9, 10 and 12, Tally discloses an apparatus adapted to be towed by a vehicle and operative for gathering yard refuse from a ground surface, said apparatus comprising:

- a gathering device having a frame (10, 16) that supports an elongated rotor (not shown, 22) and a motor (at 24) in communication with said elongated rotor (22), said elongated rotor (22) having a row of spaced apart tines (also at 22) and mounted to said frame (10, 16) to be rotatably driven by said motor (24), said tines (22) operative to gather yard refuse from the ground surface when rotating and being towed over the ground surface;

- a hitch (34) mounted to a front portion of the frame (10, 16);

- a wheel (20) operative to support said frame (10, 16) on the ground surface;

- an adjustment mechanism (58, 64) operatively mounted to said wheel (20) adjacent said elongated rotor (22) to adjust the position of the elongated rotor (22) with respect to the ground surface; and

- a basket (30) for holding the yard refuse collected from the ground surface pivotally attached to the gathering device, as per claim 9; and

- wherein the gathering device further comprises a shield (10) for preventing the collected yard refuse from being ejected out from the gathering device, as per claim 10; and

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wherein the basket (30) is a hinged basket (30) adapted to be selectably attachable to the gathering device, as per claim 12.

However, Tally fails to disclose wherein the wheel is a pair of wheels operatively connected to the frame, as per claim 9; and

Wherein the basket is supported by a second pair of wheels, as per claim 12.

Bott discloses a similar rake wherein the wheels (79) are a pair of wheels operatively connected to the frame (9) adjacent opposing ends of the elongated rotor (37), as per claim 9.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheels of Bott on the device of Tally in order to vary the height of the tines over the ground. Furthermore, it would have been obvious to one having ordinary skill in the art to provide a second pair of wheels on the basket, as per claim 12, since it has been held that mere duplication of parts of a device involves only routine skill in the art.

5. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tally in view of Bott as applied to claims 1 and 9 above, and further in view of Jobling et al., hereafter Jobling.

The device is disclosed as applied above. However, Tally and Bott fail to disclose wherein the tines include distal ends that are bent outwardly toward a direction of rotation of the elongated rotor.

Jobling discloses a similar rake wherein the tines (58) include distal ends that are bent outwardly (57) toward a direction of rotation of the elongated rotor (52).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the outwardly bent ends of the tines of Jobling on the tines of Tally and Bott in order to afford a more effective removal of material from the turf.

6. Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tally in view of Bott as applied to claims 1 and 9 above, and further in view of Doering et al., hereafter Doering.

The device is disclosed as applied above. However, the combination fails to disclose wherein the elongated rotor is selectably attachable to the gathering device.

Doering discloses a similar rake wherein the elongated rotor is selectably attachable to the gathering device (see column 2, lines 59-62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the selectably attachable rotor of Doering on the device of Tally and Bott in order to afford tool interchangeability.

Response to Arguments

7. Regarding the applicant's arguments, the amendments made to claims 1 and 9 are insufficient to overcome the prior art of record. The hitch of tally would not inhibit the basket from being rotated upwardly to be emptied. The device would simply need to be detached from the towing vehicle for emptying.


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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
August 15, 2005